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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,292	10/25/2001	Frederick M. Morgan	C01104/70089 (RFG/JT)	1752
23628	7590	09/22/2004	EXAMINER A, MINH D	
WOLF GREENFIELD & SACKS, PC FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2211			ART UNIT 2821	PAPER NUMBER

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/040,292	MORGAN ET AL.	
	Examiner	Art Unit	
	Minh D A	2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 June 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 11-36,38-62 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 34,35,39,61 and 62 is/are allowed.

6) Claim(s) 11-12, 16, 21-22 and 26 is/are rejected.

7) Claim(s) 13-15,17-20,23-25 and 27-33 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2 Claims 11-12, 16, 21-22 are rejected under 35 U.S.C. 102(b) as being unpatentable by Ishiharada et al (US 6,030,108).

Regarding claim 11, Ishiharada discloses a waterproof light apparatus comprising at least one light source (1) adapted to be supported by one of a pool and a spa to illuminate a liquid contained in the one of the pool and the spa, the at least one light source including at least one LED. See figures 1-21. col.4, lines 30-67 to col.12, lines 1-44.

Regarding claim 12, Ishiharada discloses at least one light source adapted to be supported by one of a pool and a spa to illuminate a liquid contained in the one of the pool and the spa, the at least one light source including at least one LED, wherein the one of the pool and the spa has a range of typical liquid levels of the liquid during use, and wherein the at least one light source is adapted to be disposed below the range of typical liquid levels. See figures 1-21, col.4, lines 30-67 to col.12, lines 1-44 and figures 22-35, col.12, lines 45-67 to col.17, lines 1-17.

Regarding claim 16, Ishihara discloses at least one light source adapted to be supported by one of a pool and a spa to illuminate a liquid contained in the one of the pool and the spa, the at least one light source including at least one LED, and an interface coupled to the at least one light source, the interface being adapted to engage mechanically and electrically with a conventional light socket supported by the one of the pool and the spa. See figures 1-35, col.4, lines 30-67 to col.17, lines 1-17.

Regarding claim 21, Ishihara discloses wherein the at least one LED includes at least two differently colored LEDs. See figure 24, col.12, lines 56-67 to col.13, lines 1-31.

Regarding claim 22, Ishihara discloses wherein the at least one LED includes at least one red LED, at least one green LED, and at least one blue LED. See figures 30-32, col.14, lines 1-58.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Ishihara et al (US 6,030,108).

Regarding claim 26, Ishihara discloses essentially discloses the claimed invention but does not explicitly disclose that the usages at least one light source is adapted to generate a remotely controllable variable radiation output. It would have been an obvious matter of design choice to employ shihara in order to maximize the usage of his invention, since applicant does not disclose that, all of these limitations can solve any stated problem and for any particular purpose. Therefore, it appears that the invention would not provide any improvement but merely apply the invention in different presentation.

Allowable Subject Matter

6. Claims 13-15, 17-19, 20, 23-25 and 27-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach that, an encapsulant to protect the at least one light source from moisture and the conventional light socket includes a wedge type light socket; and the interface is adapted to engage mechanically and electrically with the wedge type light socket recited in dependent claims 13 and 17.

The prior art does not teach that, at least one light source is adapted to generate radiation of different colors without requiring the use of a color filter and the at least one LEDs includes at least two independently controllable LEDs recited in dependent claims 20, 23 and 27.

7. Claims 34, 35, 39, 61-62 are allowed.

The prior art does not teach that, at least one controller coupled to the at least one light source to control radiation output by the at least one light source, wherein the at least one light source includes at least a first light source and a second light source each adapted to be supported by the one of the pool and the spa and to illuminate the liquid contained in the one of the pool and the spa in combination with all limitations recited in independent claim 34.

The prior art does not teach that, at least one LED; and an interface coupled to the at least one LED, the interface being adapted to engage mechanically and electrically with a wedge type light socket supported by the one of the pool and the spa wherein the at least one LED includes at least two differently colored LEDs recited in independent claim 35.

The prior art does not teach that, the interface being adapted to engage mechanically and electrically with a wedge type light socket supported by the one of the pool and the spa, wherein the one of the pool and the spa has a range of typical liquid levels of the liquid during use, wherein the wedge type light socket is located below the range of typical liquid levels, and wherein the light fixture further includes: an encapsulant to protect the at least one LED from moisture in combination with all limitations recited in independent claim 39.

The prior art does not teach that, acts of engaging at least one light fixture mechanically and electrically with a wedge type light socket supported by the one of the pool and spa, the at least one light fixture including at least one LED; and b) providing at

least power to the at least one light fixture via the wedge type light socket to illuminate the liquid in combination with all limitations recited in independent claims 61-62.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silveri. (US RES 37,055) and Silveri. (US 5,221,444) are cited to show a light pool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (571-272-1819). The examiner can normally be reached on M-F (7:30 –4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.



Examiner

Minh A

Art unit 2821

09/19/04